

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	John W. Darrah	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 7372	DATE	8/21/2001
CASE TITLE	LILLY vs. FORD MOTOR COMPANY		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Status hearing held. Enter Memorandum Opinion And Order. Plaintiffs' motion to remand is denied. Plaintiff granted leave to file an amended complaint on or before 9/11/01. Defendant's response to be filed by 10/02/01. Status hearing set for 10/9/01 at 9:30 a.m.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	LG courtroom deputy's initials	ED-7 FILED FOR DOCKETING 01 AUG 23 AM 8:53	Date/time received in central Clerk's Office	number of notices	Document Number 26
				date docketed	
				15 docketing deputy initials	
				date mailed notice	
				mailing deputy initials	

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The Honorable John W. Darrah

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jurisdictional amount; and

(2) with respect to at least one plaintiff in the Illinois action, either—

(A) a response by such plaintiff to an interrogatory or interrogatories as to the amount in controversy, either (i) stating that the damages actually sought by that plaintiff exceeds the jurisdictional amounts or (ii) declining to agree that the damage award to that plaintiff will in no event exceed the jurisdictional amount; [emphasis added] or

(B) an admission by such plaintiff in response to a request for admissions, or a showing as to the deemed admission by such plaintiff by reason of plaintiff's failure to serve a timely denial to such a request, in either event conforming to the statement or declination to agree described in subparagraph (2)(A) of this rule.

Defendant has now complied with Local Rule 81.2 since it has filed a response by Plaintiff to a request to admit, which essentially refuses to agree that Plaintiff Lilly's recoverable damages will not exceed \$75,000. The request to admit and response read as follows:

4. Please admit that Plaintiff, James Lilly, is not entitled to an award for damages based on the claims asserted in the Complaint or claims arising out of the facts alleged in the complaint in excess of \$75,000.00.

Answer: Objection. This request is inappropriate. The amount of the award that the Plaintiff is entitled to receive should be decided by the trier of fact. Nonetheless, Plaintiff, James Lilly reiterates that he does not seek an individual award for damages in excess of \$75,000.00.

Def. Ex. B at 3.

Although Plaintiffs state that Lilly will not seek damages in excess of \$75,000, it is clear from the face of the complaint that the stated damages, if proven, will exceed that amount. In the Complaint, Lilly claims that he suffered "permanent and disabling injuries which continue to cause his loss of a normal life." (Compl. ¶ 7). Lilly further claims that "he has incurred extensive medical bills, a loss of earning potential and extreme pain and suffering." (Compl. ¶ 7). Furthermore, the Complaint seeks to certify a class of people who "suffered personal injuries," including death. It is clear from the allegations in the complaint that the case constitutes one in which individual damages

for members of the class will exceed \$75,000.

Although Plaintiffs attempt to defeat federal jurisdiction by citing their intent to amend the Complaint to remove the claims for personal injuries, this argument is not persuasive. “[W]hether subject matter jurisdiction exists is a question answered by looking at the complaint as it existed at the time the petition for removal was filed.” *Gossmeier v. McDonald*, 128 F.3d 481, 487 (7th Cir. 1997).

Since the personal injury claims of Lilly and the other potential members of the class are sufficient for federal jurisdiction, the issue of whether Plaintiffs’ claim for injunctive relief constitutes a “common and undivided interest,” need not be reached. Furthermore, since at least one of the class member’s claims exceeds \$75,000, supplemental jurisdiction over the remaining claims is appropriate. Plaintiffs’ Motion to Remand is DENIED.

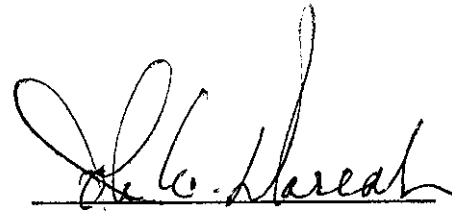
CONCLUSION

For the reasons stated herein, Plaintiffs’ Motion to Remand is DENIED.

IT IS SO ORDERED.

Date:

August 21, 01

A handwritten signature in black ink, appearing to read "John W. Darrah", written over a horizontal line.

John W. Darrah, Judge
United States District Court